

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 14TH MARCH 2007 / 23RD PHALGUNA 1928

WP(C).No. 7465 of 2007(L)

AGAINST THE ORDER DATED 04/05/2005 IN CRMP.3525 & 3526/04 IN
MC.47/2004 of J.M.F.C.-I, PERINTHALMANNA
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PETITIONER:

MOHAMMED BASHEER, S/O.MOIDEENKUTTY,
MACHINGAL HOUSE, POST CHERIYAMUNDAM,
MALAPPURAM DISTRICT (POWER OF ATTORNEY HOLDER
OF MOIDEENKUTTY).

BY ADV. SRI.T.KRISHNAN UNNI

RESPONDENTS:

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1. P.KHADEEJA, D/O.MOHAMMED,
PANCHILI HOUSE, KURUVA, MAKKARAPARAMBU,
MALAPPURAM DISTRICT.
 2. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY GOVERNMENT PLEADER SRI.S.U.NAZER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 14/03/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

R.BASANT, J

W.P(C).No.7465 of 2007

Dated this the 14th day of March, 2007

JUDGMENT

The petitioner is the power of attorney holder of a respondent in a proceedings under Section 3 of the Muslim Women (Protection of Rights on Divorce) Act. As per order dated 13.04.04, the claim has been allowed and an amount of about Rs.5 lakhs is payable under the order (there is a dispute about the precise amount payable). The learned Magistrate has initiated steps for recovery of the amount by issue of destraint warrant. The petitioner has rushed to this Court with this petition as the power of attorney holder of his father, who is employed abroad. The short prayer made in the course of arguments finally is that some time may be granted to the petitioner to discharge the entire liability. In the meantime, the properties of the respondent in M.C.47 of 2004 may not be brought to sale. This is the short prayer that is made at the end of the discussions at the Bar. To show his bona fides, the petitioner has already deposited an amount of Rs.1 lakh before the learned Magistrate on 12.03.2007, it is submitted.

2. I have heard the learned counsel for the petitioner. In the circumstances of the case, I am not satisfied that it is necessary to wait for issue and return of notice to the respondent. I am satisfied that subject to appropriate conditions, the actual sale of the property

belonging to the respondent alone can be postponed for a period of three months from this date subject to appropriate conditions.

3. In the result, this Writ Petition is, allowed in part. The property of the respondent in M.C.47 of 2004 shall not be actually sold till 15.06.2007 on condition that the petitioner deposits at least an amount of Rs.50,000/- (Rupees Fifty thousand only) each on or before 02.04.2007, 17.04.07, 02.05.07 and 17.05.07 in addition to the amount of Rupees One lakh deposited on 12.03.2007. It is made clear that all other steps for recovery can be taken including attachment of the property, but sale alone need wait till 15.06.07. The amounts deposited shall be released to the claimant/divorced wife forthwith.

(R.BASANT, JUDGE)

rtr/-